

NEWPORT BEACH ZONING ADMINISTRATOR MINUTES
100 Civic Center Drive, Newport Beach
Corona del Mar Conference Room (Bay E-1st Floor)
Thursday, June 12, 2014
REGULAR HEARING
3:30 p.m.

A. CALL TO ORDER – The meeting was called to order at 3:30 p.m.

Staff Present: Brenda Wisneski, Zoning Administrator
Debbie Drasler, Contract Planner
Fern Nueno, Associate Planner
Jason Van Patten, Planning Technician
Melinda Whelan, Assistant Planner

B. MINUTES of May 15, 2014

Action: Approved

C. PUBLIC HEARING ITEMS

ITEM NO. 1	Birkett Condominium Conversion No. CC2014-003 (PA2014-071) 712 and 712 ½ Orchid Avenue	CD 6
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Jason Van Patten, Planning Technician, provided a brief project description stating that the request was to convert an existing duplex to a two-unit condominium project. He stated that the code required parking was provided and that the applicant did not request to waive any Title 19 requirements. Mr. Van Patten indicated that the duplex was originally intended to be built as condominiums but construction was completed prior to the recordation of a parcel map. He noted that existing tenants were notified of their rights with regards to tenancy and that a special inspection was conducted to identify building safety violations.

Applicant David Birkett, property owner, stated that he had reviewed the draft resolution and the required conditions.

The Zoning Administrator opened the public hearing. Seeing that no one from the public wished to comment the public hearing was closed.

Zoning Administrator Wisneski approved this item with an amendment to Condition 5 to add language indicating that the applicant shall resolve building safety violations identified in the Condominium Conversion Inspection Report dated May 22, 2014.

Action: Approved

ITEM NO. 2	De Sola Terrace Retaining Wall Modification Permit No. MD2014-003 (PA2014-040) 444 De Sola Terrace	CD 6
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Fern Nueno, Associate Planner, provided a brief project description stating that the request was for a 5-foot-high solid retaining wall that would serve as pool protection fencing within the front setback. She continued that the Zoning Code limits the height of walls to 42 inches within the front setback; however, the Code allows 5-foot-high walls for pool protection fencing if the wall is 40 percent open (such as wrought iron or Plexiglas). The requested Modification Permit would allow for a 5-foot-high solid retaining wall that would not meet the 40 percent open requirement. Ms. Nueno further described the constraints of the site with two front setbacks

and a sloping area where the pool is proposed to be located. She continued that the proposed retaining wall would serve as the wall of the pool and pool protection fencing.

Applicant/Owner Robert Hughes stated that he had reviewed the draft resolution and the required conditions.

The Zoning Administrator opened the public hearing.

One member of the public, Jim Mosher, spoke and pointed out a typographical error in the resolution. He further commented on the intent of front setbacks to maintain a sense of open space along streets, but acknowledged the unique situation of this property with the double frontage. He continued that he does not feel there is a right to a pool in a front yard setback.

One member of the public, Scott Henderson, spoke and stated that he lives in the neighborhood and is familiar with the CC and R's and look of the community. He stated his agreement with the proposal and that he liked what was presented. He further discussed the orientation of the houses and issues with retaining walls in the neighborhood.

In response to a question from Zoning Administrator Wisneski, Robert Hughes confirmed that the Homeowners Association reviewed and approved the proposed project.

There were no other public comments and the public hearing was closed.

Zoning Administrator Wisneski discussed the uniqueness of the through lot and terraced area, compatibility of the project with the neighborhood, and the requested deviation from code requirements.

Zoning Administrator Wisneski approved this item with an amendment to the Resolution adding a condition of approval requiring that landscaping be provided along the base of the retaining wall to soften the view from the street.

Action: Approved

ITEM NO. 3

**Pizza del Perro Negro Minor Use Permit No. UP2014-017 (PA2014-066)
2233 W. Balboa Boulevard, Unit 102**

CD 1

Debbie Drasler, Contract Planner, provided a brief project description stating that the request was to convert an existing 1,050-square-foot, vacant commercial tenant space to a new take-out service, limited eating and drinking establishment with no late hours or alcohol sales as part of this application. She stated that the property is within the MU-W2 (Mixed-Use Water Related) Zoning District and is considered legal nonconforming due to a deficiency of on-site parking for commercial use. Mrs. Drasler pointed out that the proposed take-out service, limited use requires one parking space per 250 square feet of gross floor area and no intensification or enlargement is proposed; therefore, no additional parking is required.

Applicant Tiffany Heremans, on behalf of Pizza del Perro Negro, stated that she had reviewed the draft resolution and the required conditions.

The Zoning Administrator opened the public hearing.

One member of the public, Mr. Jim Mosher, spoke and inquired on the previous use of the suite and stated that the City's non-conforming parking was ambiguous.

In response to Mr. Mosher's inquiry, neither the planner nor the applicant had knowledge of the previous use of the subject site.

There were no other public comments.

Zoning Administrator Wisneski stated the required parking for the proposed take-out service, limited use is one parking space per 250 square feet and therefore is not considered an intensification.

Zoning Administrator Wisneski approved this item with no changes to the Conditions of Approval.

Action: Approved

ITEM NO. 4 Sancho's Tacos Minor Use Permit No. UP2014-013 (PA2014-058)
3014 Balboa Boulevard

CD 1

Melinda Whelan, Assistant Planner, provided a brief project description stating that the request was to add a Type 41 Alcohol Beverage Control (ABC) License to an existing taco restaurant. She explained that the restaurant operates under an existing Specialty Food Permit that allows a maximum of 20 seats, including outdoor seating and hours of operation from 6:00 a.m. to 9:00 p.m. and that these conditions are not proposed to change. Mrs. Whelan continued stating that the only physical change to the property would be to secure the outdoor seating area to meet ABC requirements. Mrs. Whelan explained that the Police Department reviewed the application and did not have any objections to the request and has provided standard conditions of approval which are found in the draft resolution. Additionally, she stated that conditions of approval have been incorporated to address noise and trash, updating the enforcement capability of the existing permit. Mrs. Whelan concluded that the applicant was available to provide information and answer questions.

Applicant Donnie Lancaster of Sancho's Tacos stated that he had reviewed the draft resolution and the required conditions. He provided a brief overview of his operation in Newport Beach and in Huntington Beach. He confirmed that he is not requesting any changes to the operation other than adding an ABC license. He explained that he has different menus for different locations based on the needs of the area and the request is to simply provide a beer with a taco. He does not want people to hang out as the location is too small. He just wants the option of having a small cooler with beer. There is no room for taps or a bar-type setting. Furthermore, they have 5 stars on Yelp for both locations.

The Zoning Administrator opened the public hearing.

One member of the public, Brian Park, spoke and stated that he is concerned about the Police Department statistics for the area regarding alcohol licenses and expressed opposition to the request.

One member of the public, Drew Wetherholt, spoke in opposition to the request, expressing concern about over-concentration of alcohol licenses and the Police Department statistics.

One member of the public, Jim Mosher, commented on the Police Department statistics and recommended that the Zoning Administrator include all of the recommended conditions of approval from the Police Department as Nos. 4 and 11 were not included in the draft resolution.

There were no other public comments and the public hearing was closed.

Zoning Administrator Wisneski addressed concerns from the public. She discussed the Police Department statistics and described them as the reason why the application is taken very seriously and why it is required to go through a process that ensures that conditions are in place to address concerns. Zoning Administrator Wisneski also explained that applications are reviewed case-by-case without discrimination against new applicants. She continued that the size, floor plan and operation of the small establishment does not promote a bar-type atmosphere. She made the following changes to the Resolution: addition to Condition No. 7 restricting the maximum number of outdoor seats to 8, addition to Condition No. 11 to state that amplified music shall not be allowed in the outdoor areas, and addition to Conditions No. 4 and No. 11 from the Police Department Report to the Resolution.

Zoning Administrator Wisneski then approved the application with the aforementioned changes to the Resolution.

Action: Approved

D. PUBLIC COMMENTS ON NON-AGENDA ITEMS

None.

E. ADJOURNMENT

The hearing was adjourned at 4:12 p.m.

The agenda for the Zoning Administrator Hearing was posted on June 6, 2014, at 11:03 a.m. in the Chambers binder and on the digital display board located inside the vestibule of the Council Chambers at 100 Civic Center Drive and on the City's website on June 6, 2014, at 11:15 a.m.

Brenda Wisneski, AICP, Zoning Administrator

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